

REMARKS

Claims 31-51 are pending in the application. Claims 1-30 are canceled. Claims 31-51 stand rejected. Applicants herein amend claim 38 to correct an informality. Without conceding the proprietary of the rejections and in the interest of further prosecution Applicants herein amend claims 31, 38, and 45. Applicants additionally add new claims 52 and 53. Further review and consideration is respectfully requested in view of the amendments and following remarks.

Information Disclosure Statement

The references submitted in an IDS statement dated 12/17/01 have not been acknowledged. Applicants respectfully request that the Examiner acknowledge the references.

Claim Rejections – 35 USC § 101

Claims 31, 38, and 45 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. In the Office Action the Examiner stated that claims 31, 38, and 45 are directed to algorithms and fail to provide useful, concrete, and tangible results. Applicants disagree with the Examiner.

With respect to claim 31, Applicants respectfully submit that the claimed subject matter satisfies the requirements of section 101 because it produces a useful, concrete and tangible result. Algorithmic inventions are considered patentable subject matter when the algorithm is used by a machine to produce a useful, concrete, or tangible result. *See, e.g., In re Alappat*, 33 F.3d 1526, 1540-41, 31 USPQ2d 1545, 1554 (Fed. Cir. 1994) (in banc). In *Alappat*, the court held that data transformed by a machine through a series of mathematical calculations to produce a smooth waveform constituted a practical application of an algorithm because it produced a useful, concrete and tangible result. *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557. Similarly, in the instant matter, claim 31 produces a useful, concrete, and tangible result, e.g., a request for a specific receipt is received and the specific electronic receipt is transmitted to a remote device. Accordingly, for at least this reason Applicants respectfully request reconsideration of the section 101 rejection of claim 31.

With respect to claim 38, Applicants respectfully submit that the claimed subject matter is statutory because claim 38 is directed towards a “computer readable storage medium including computer executable instructions that, when executed by a server, cause the server to store receipts.” Applicants respectfully submit that the computer readable storage medium is at least an article of manufacture, and that the computer readable storage medium is useful because it can be used to configure a processor of the server thus transforming the server into a special purpose computer system. In *Alappat*, the court held “that such programming creates a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.” *Id.* at 1545. Since claim 38 is at least directed towards an article of manufacture that is useful, e.g., it can be used to program a processor of the server, Applicants respectfully submit that claim 38 is directed towards statutory subject matter.

With respect to claim 45, Applicants respectfully submit that the claimed subject matter is statutory since claim 45 is directed towards at least an article of manufacturer that is configured to store receipts. Similar to that described above, the system of claim 45 is useful because it can transmit a specific electronic receipt in response to a request for the specific electronic receipt. The system of claim 45 includes components configured to ‘generate’, ‘receive’, and ‘transmit’ and these components themselves are useful, concrete, and tangible. In the Office Action, the Examiner indicate that the language ‘configured to’ fails to limit the scope of the claim because the language ‘configured to’ “does not require steps to be performed.” (See Office Action at p. 6). Applicants submit that a system claim does not have to include active subject matter to be statutory. Applicants submit that a system claim merely requires structure to satisfy section 101. Accordingly, since claim 45 is directed towards statutory subject matter Applicants respectfully request reconsideration of the section 101 rejection of claim 45.

Claim Rejections – 35 USC § 102

Claims 31 – 51 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,394,341 (“MaKipaa”). Applicants respectfully submit that the art of record fails to teach or suggest at least a “receipt card having a magnetic strip encoded with information that identifies an electronic address of the database and information that identifies a user account.” (Emphasis added). Applicants respectfully submit that MaKipaa discloses a user device 14 that may be “a smart card, a mobile terminal including a wireless[] telephone or short range wireless communication link, such as the proposed Bluetooth specification, a PDA, etc.” (Col. 8, lines 51-53). Essentially, according to Makipaa, the defining characteristic of user device 14 is that it “typically contains a processor and associated memory and the aforementioned communication capability providing communications of links 16 and 20.” (Col. 8, lines 46-50). Thus, Applicants submit that the receipt card of claim 31 is patentably distinct from the user device of MaKipaa.

Applicants have amended claim 31 to include the subject matter “wherein each receipt includes a list of items purchased during a cash transaction and unique transaction identification information for the cash transaction.” (Emphasis added). Applicants submit that MaKipaa fails to teach or suggest storing receipts in the database associated with cash transactions. Accordingly, for at least these reasons Applicants respectfully request reconsideration of the rejection of claim 31.

Insomuch as dependent claims 32-37 depend directly from 31 they too patentably define over the art of record for at least the reasons stated above with respect to claim 31. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 32-37.

Independent claims 38 and 45 recite similar elements to that of claim 31 and patentably define over the cited art for at least similar reasons. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 38 and 45.

Insomuch as dependent claims 38-44 and 46-51 depend directly from claims 38 or 45 they too patentably define over the art of record for at least the reasons stated above with respect to claim 31. Accordingly, Applicants respectfully request reconsideration of the rejections of claims 38-44 and 46-51.

New claim 52

Newly presented claim 52 recites in part “receiving a receipt card on which is imprinted an account number that identifies an electronic address of a receipt card server and identifies a user account, wherein the receipt card comprises a plastic housing having a front face whereon the account number is embedded and a rear face whereon the account number is encoded in a magnetic strip; [and] receiving a form of payment for the transaction, wherein the form of payment is one of cash and a check.” (Emphasis added). Applicants respectfully submit that the art of record fails to teach or suggest at least the emphasized subject matter of claim 52. As stated above, MaKipaa fails to teach or suggest a receipt card according to claim 52 and fails to describe whether the system of MaKipaa can work for cash transactions.

Applicants submit that U.S. Application No. 09/871,330 to Lee additionally fails to teach or suggest a receipt card according to claim 52. Lee describes a mobile terminal 60 that interfaces with a transaction approval terminal 70. (See, e.g., Lee at paragraph [0033]). The transaction terminal encodes each receipt with information received from the mobile terminal 60 and transmits a credit approval request to a credit card company 90. (See, e.g., Lee at paragraph [0033]). According to Lee, “the mobile terminal 60 may be a terminal, such as a cellular phone, a personal digital assistant (PDA), an IMT 2000 terminal, that contains the transponder therein and is based on a network.” Thus, the receipt card of claim 52 patentably defines over the mobile device of Lee. In addition, the system of Lee relies on a credit card processing system. According to claim 52, the form of payment is one of cash and check, neither of which can be used in a credit card transaction. Thus, Applicants respectfully submit that the system of Lee fails to teach or suggest using a receipt card in conjunction with cash or a check. Accordingly, for at least these reasons Applicants respectfully submit that claim 52 is in condition for allowance.

Insomuch as claim 53 depends from claim 52 it too is in condition for allowance.

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PATENT

CONCLUSION

Applicants respectfully request that the Examiner reconsider the rejections to the claims and issue a Notice of Allowance of all pending claims.

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